

FILED

NOV 17 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 SUSAN MELTON WILSON, State Bar No. 106902
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-4942
Facsimile: (213) 897-2804
6

7 Attorneys for Complainant

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC**
11 **TECHNICIANS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-2007-687

14 FRENÆ MICHELLE WILLIAMS
4065 Ursula Avenue, Apt. #6
Los Angeles, CA 90008

A C C U S A T I O N

15 Vocational Nurse License No. VN 130501

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

- 19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
20 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
21 Nursing and Psychiatric Technicians, Department of Consumer Affairs.
- 22 2. On or about December 23, 1985, the Bureau of Vocational Nursing and
23 Psychiatric Technicians (Board) issued Vocational Nurse License No. VN 130501 to Frenæ
24 Michelle Williams (Respondent). The Vocational Nurse License was in full force and effect at
25 all times relevant to the charges brought herein and will expire on April 30, 2009, unless
26 renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Director of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 101.1, subdivision (b), states:

"(1) In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.

"(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department."

5. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

6. Section 150 states : "The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs."

7. Section 477 states :

"As used in this division :

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

///

1 (b) "License" includes certificate, registration or other means to engage in a
2 business or profession regulated by this code."

3 8. Section 490 of the Code provides, in pertinent part, that the Board may
4 suspend or revoke a license when it finds that the licensee has been convicted of a crime
5 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

6 9. Section 2875 of the Business and Professions Code (Code) provides, in
7 pertinent part, that the Board may discipline the holder of a vocational nurse license for any
8 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice
9 Act.

10 10. Section 2878 of the Code states:

11 "The Board may suspend or revoke a license issued under this chapter [the
12 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)) for any of the following:

13 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

14

15 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
16 abetting the violating of, or conspiring to violate any provision or term of this chapter.

17

18 "(f) Conviction of a crime substantially related to the qualifications, functions,
19 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
20 conclusive evidence of the conviction.

21

22 "(j) The commission of any act involving dishonesty, when that action is related
23 to the duties and functions of the licensee."

24 **REGULATORY PROVISIONS**

25 11. California Code of Regulations, title 16, section 2521, states:

26 "For the purposes of denial, suspension, or revocation of a license pursuant to
27 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
28 act shall be considered to be substantially related to the qualifications, functions or duties of a

1 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
2 licensed vocational nurse to perform the functions authorized by his license in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

5 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Conviction of a Substantially Related Crime)**

11 13. Respondent is subject to disciplinary action under section 2878,
12 subdivision (f) and 490 of the Code, as defined by California Code of Regulations, title 16,
13 section 2521, in that Respondent was convicted of crimes substantially related to the
14 qualifications, functions or duties of a licensed vocational nurse, as follows:

15 **FELONY FORGERY - 2003**

16 a. On or about March 7, 2003, after pleading guilty, Respondent was
17 convicted of one felony count of violating Penal Code section 470(a) (forgery) in the criminal
18 proceeding entitled *The People of the State of California v. Frenae Williams* (Super. Ct., San
19 Bernardino County, 2007, No. FWV026844).

20 b. Respondent was initially sentenced to supervised probation for a period of
21 three (3) years. However, on or about December 14, 2007, due to Respondent's failure to comply
22 with terms of the probation order, Respondent's probation was modified ; she was ordered to
23 serve 90 days in a San Bernardino County Jail Facility, and the period of probation was extended
24 to expire on December 14, 2009.

25 c. The circumstances surrounding the conviction are that on or about
26 December 13, 2002, Respondent entered a 'Best Buy' store in Rancho Cucamonga, California
27 and requested a line of credit. Respondent presented a fraudulent California Drivers License with
28 the name and personal identifying information of her mother. Respondent admitted that she had

1 purchased the 'fake' drivers license for \$30.00, and had used it to obtain credit because her own
2 credit was poor.

3 d. As an express condition of her current criminal probation, Respondent is
4 prohibited from accepting or maintaining any employment where she has access to financial
5 records without prior notice to the employer that she is on probation for a crime involving
6 identity theft.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Commission of a Dishonest Act)**

9 14. Respondent's license is subject to disciplinary action under section 2878,
10 subdivision (j) of the Code, on the grounds of unprofessional conduct, in that Respondent
11 committed a dishonest act. Complainant refers to, and by this reference incorporates the
12 allegations of paragraph 13, as though set forth fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Violating Provisions of the Vocational Nursing Practice Act)**

15 15. Respondent's license is subject to disciplinary action under section 2878,
16 subdivisions (a) and (d) of the Code, on the grounds of unprofessional conduct, in that
17 Respondent violated provisions of the Vocational Nursing Practice Act, and by this reference
18 incorporates the allegations of paragraphs 13 and 14, as though set forth fully.

19 **DISCIPLINE CONSIDERATIONS**

20 16. To determine the degree of discipline, if any, to be imposed on
21 Respondent, Complainant alleges:

22 a. On or about June 11, 2003, the Board issued its *letter of warning*
23 regarding a complaint for gross negligence against Respondent by a client whom Respondent had
24 cared for in her home. The Board opted not to pursue disciplinary action against Respondent at
25 that time, but advised that "further substantiated convictions or complaints ...will result in
26 disciplinary action" against her license.

27 b. On or about September 18, 2003, the Board issued Citation No. 03-0160-
28 L to Respondent for violating section 2878, subdivisions (a) (unprofessional conduct), (b)

(procuring a license by fraud, misrepresentation or mistake), (e) (making or giving any false statement or information in connection with the application for issuance of a license), (f) (conviction of a crime), and (j) (the commission of any act involving dishonesty) of the Code and California Code of Regulations, title 16, sections 2518.6, subdivision (b) (a licensed vocational nurse shall adhere to the standards of profession ...) and 2521 (defining substantially related crimes). The citation was issued with a fine in the amount of \$1,000 and is now final.

c. Prior Criminal Convictions

(1) Misdemeanor Battery (2000) - On or about May 4, 2000, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 242 (battery) in the criminal proceeding entitled *The People of the State of California v. Frenae Williams* (Super. Ct., San Bernardino County, 2000, No. MWV041239). Respondent was placed on court probation for a period of two (2) years. The circumstances surrounding the conviction are that on or about December 4, 1997, Respondent entered Splash Pools & Spas in Rancho Cucamonga, California and attempted to purchase goods with a bad check. Respondent attempted to take the check back by force and punched a sales clerk in the eye during an argument over writing the bad check.

(2) Misdemeanor Vandalism (1996) - On or about May 29, 1996, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal Code section 594(a) (vandalism) in the criminal proceeding entitled *The People of the State of California v. Frenae Williams* (Super. Ct., San Bernardino County, 1996, No. MWV025661). Respondent was placed on court probation for a period of two (2) years. The circumstances surrounding the conviction are that on or about September 30, 1995, Respondent "defaced with graffiti" and damaged a cash register belonging to John H.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Vocational Nurse License No. VN 130501, issued to Respondent.

2. Ordering Respondent to pay the Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: November 17, 2008

TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

LA2008601158
60331338 2